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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/054,650	10/19/2001	Daniel M. Swain	SCM-121-A	9251

7590 08/12/2003  
Plunkett & Cooney PC  
Suite 3000  
38505 Woodward  
Bloomfield Hills, MI 48304

EXAMINER

MARSH, STEVEN M

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 08/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/054,650

Applicant(s)

SWAIN, DANIEL M.

Examiner

Steven M Marsh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 March 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 January 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This is the second office action for U.S. Application 10/054,650 for a Dual Function Mirror Mount filed by Daniel M. Swain on October 19, 2001. Applicant's representative, Dennis Lacina, indicated that the attorney's of record have changed. However, no power of attorney has been executed and therefore the attorney's of record are Arnold S. Weintraub and Dennis Lacina.

### ***Information Disclosure Statement***

The information disclosure statement filed January 13, 2003 fails to comply with 37 CFR 1.97(d) because it lacks the fee set forth in 37 CFR 1.17(p). It has been placed in the application file, but the information referred to therein has not been considered.

### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "22" and "26" have both been used to designate the interior chamber. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The corrected or substitute drawings were received on January 13, 2003. These drawings are not acceptable. The views and reference numbers in the substitute drawings do not correspond to the specification.

***Claim Rejections - 35 USC § 102***

Claims 1-5 and 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,227,924 to Kerper. Kerper discloses a rear view mirror assembly with a plastic mirror head (16) for mounting a mirror and attachable to the end portion of a vehicle support bracket (15). The mirror head has an interior surface with an interior chamber and a periphery shaped to receive a mirror. There is a clamping means for clamping the mirror head tightly, yet turnably, around to the end portion of the bracket. The clamping means has an endwall (24) interiorly of the interior chamber with a socket for receiving the end portion of the bracket and an opening (20) in communication with the socket.

There is a clamping plate (26) formed from a resiliently rigid material (see col. 3, lines 22-25) and having first and second sleeve portions (61 and 62) that cooperate with the endwall, which has first and second sleeve portions (56), to form a socket for captivating the end portion of the bracket and constrain the mirror head to turn about an axis through the socket. The socket means has a plurality of parallel ribs extending upwardly from the endwall (each side of 54) to respective arcuate end surfaces to form a spherical cradle and the ribs extend proximate the opening in the endwall. There is a tightening means disposed at least in part, exteriorly of the interior chamber, for forcing the clamping plate and the endwall towards one another and against the end portion to prevent the mirror head from turning relative to the end portion. The tightening means is a first and second bore provided in the endwall and the clamping plate, respectively, as well as a fastener having a head portion adapted to engage the exterior surface of

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the mirror head. The fastener has a threaded portion sized to pass through the apertures, threadably engage the endwall, and draw the clamping plate toward the endwall with the end portion of the bracket therebetween. There is also a second opening (54) sized to receive an end portion of the stem.

***Claim Rejections - 35 USC § 103***

Claims 6-10 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kerper in view of U.S. Patent 1,938,541 to Oishei. Kerper does not disclose a ball fixedly connected to a stem of the end portion of the bracket. Kerper does disclose a bushing (28) connected to the end of a stem portion (15) that extends through an opening for rotation within the clamping means. Oishei discloses a rear view mirror mounting with a bracket that is rotatably mounted within a clamping portion (35 and 36). The bracket has a stem (32) with a ball (27) connected to the end portion, which fits into a socket (formed by 37 and 38) in the clamp portion, to allow for rotation of the mirror in relation to the bracket. It would have been obvious to one of ordinary skill in the art at the time of the present invention to have substituted the ball and socket portions taught by Oishei, for the bearing and socket portions taught by Kerper, for the purpose of providing a more effective means of rotation for the mirror in relation to the bracket.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kerper. Kerper does not disclose a mirror head having engagement openings for receiving a mirror with fingers. Kerper does disclose a slot-projection relationship (or openings) to mount two parts (16 and 24) together. Therefore, Kerper discloses the structure of

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engagement openings. It would have been obvious to one of ordinary skill in the art at the time of the present invention to have provided projections on the mirror to engage slots provided on the mirror head.

### ***Response to Arguments***

Applicant's arguments filed March 3, 2003 have been fully considered but they are not persuasive. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the tightening means being accessible after assembly) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The assembly taught by Kerper can be accessed from outside the chamber and mirror head prior to assembly. Applicant also argues that Kerper and Oshei do not disclose a dual function mounting mechanism that can mount either an elongated head or a ball mount. It is pointed out that Applicant has not claimed a mounting member that can mount both a shaft with a ball mount and an elongated shaft, but rather a dual mounting member that can mount one of the two.

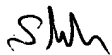
### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Marsh whose telephone number is (703) 305-0098. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30 PM. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3597.



Steven M. Marsh

August 8, 2003



LESLIE A. BRAUN  
SUPERVISORY PATENT EXAMINER